

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**HSBC BANK USA, NATIONAL
ASSOCIATION AS TRUSTEE FOR
MASTR REPERFORMING LOAN
TRUST 2005-2 MORTGAGE PASS-
THROUGH CERTIFICATES,** §
§
§
§
§
§

Civil Action No. 4:20-cv-976

Plaintiff, §
§
§

v. §
§

**JESSICA KELLY, KIERSTEN KELLY, AND §
CLAYTON KELLY,** §
§
§

Defendants. §

**PLAINTIFF'S SECOND MOTION TO CANCEL INITIAL
SCHEDULING CONFERENCE HEARING**

Plaintiff HSBC Bank USA, National Association as Trustee for Mastr Reperforming Loan Trust 2005-2 Mortgage Pass-Through Certificates (“Plaintiff”) files this *Motion to Cancel Initial Scheduling Conference Hearing*, and respectfully shows as follows:

1. On March 17, 2020, Plaintiff filed its Original Complaint against Defendants Jessica Kelly, Kiersten Kelly and Clayton Kelly (“Defendants”) seeking and order for foreclosure on the real property and improvements commonly known as 15818 Oakendell Drive, Houston, TX 77084 (“Property”) due to an event of default on the subject loan. (ECF Doc. No. 1)

2. Plaintiff completed service on Defendants Clayton Kelly and Kiersten Kelly on July 28, 2020. (ECF Nos. 11 and 12.) Plaintiff completed service on Defendant Jessica Kelly on July 31, 2020. (ECF no. 10.) Defendants have not answered or otherwise appeared in this action. On October 29, 2020, Plaintiff sought an entry of default from the Clerk and a default judgment against all Defendants. (ECF Doc. Nos. 13 and 14.)

3. On April 12, 2021, this Court entered an order abating this case until May 24, 2021, upon Plaintiff's request. Per the order, upon expiration of the abatement period, the case would be reinstated automatically without further order from the Court. (ECF No. 25.)

4. The abatement period has expired and now this case is considered automatically reinstated. Default has been entered against Defendants, but Plaintiff's Motion for Default Judgment remains pending adjudication from this Court. (ECF Doc. No. 27.) This matter is currently set for an initial scheduling conference on August 11, 2021 (ECF Doc. No. 28.)

5. In light of Defendants' failure to appear, Plaintiff is not able to confer with them or prepare a Joint Discovery Plan. Further, if the Court eventually grants Plaintiff's Motion for Default Judgment, the need for a Joint Discovery Plan will be moot.

6. Accordingly, for the reasons stated above and since Plaintiff's Motion for Default Judgment against Defendants is still currently under consideration of the Court, Plaintiff requests that the Court cancel the referenced setting until the Court evaluates Plaintiff's request for default.

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that the Court cancel the initial scheduling conference scheduled for August 11, 2021 and to grant Plaintiff any other relief at law or in equity to which Plaintiff is entitled.

Respectfully submitted,

By: /s/ Vivian N. Lopez
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

The undersigned certifies that no Defendants have filed an answer and/or otherwise appeared in this action. Therefore, a certificate of conference is not necessary.

/s/ Vivian N. Lopez
VIVIAN N. LOPEZ

CERTIFICATE OF SERVICE

The undersigned certifies that on August 4, 2021 a true and correct copy of the foregoing document was delivered to the following Defendants in the manner described below:

Via U.S. Mail

Jessica Kelly
4311 Jura Drive,
Houston, TX 77084

Via U.S. Mail

Clayton Kelly
4903 Cheena Drive,
Houston, TX 77096

Via U.S. Mail

Kiersten Kelly
4903 Cheena Drive,
Houston, TX 77096

/s/ Vivian N. Lopez
VIVIAN N. LOPEZ